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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

HECTOR TORRES,

Plaintiff,

vs.

BELLAGIO, LLC, a Nevada corporation;  
ROE Business Organizations I-X; and, DOE  
INDIVIDUALS I-X, inclusive,

Defendants.

Case No. 2:17-cv-01025-JAD-VCF

**STIPULATION AND [PROPOSED]  
ORDER TO EXTEND RESPONSE AND  
REPLY DISPOSITIVE MOTION  
DEADLINES**

ECF No. 47

Pursuant to Local Rules IA 6-1 and 26-4, Plaintiff HECTOR TORRES (“Plaintiff”) by and through his counsel, Kemp & Kemp, and Defendant BELLAGIO, LLC (“Defendant”), by and through its counsel, Jackson Lewis P.C., hereby stipulate to amend the Discovery Plan and Scheduling Order (ECF No. 35) and Order Granting Stipulation to Extend Discovery Deadlines (Fourth Request) (ECF No. 45) by extending the deadline to file both the response and rely to dispositive motions as set forth below.

This is the fifth request for an extension to the discovery plan and scheduling order in this matter. The parties’ prior requests have sought additional time to conduct discovery which in turn affected the deadline to file dispositive motions under FRCP 56. Thereafter, the parties stipulated to an extension of time for Defendant’s to file its Motion for Summary Judgment. ECF

No. 45. This extension does not seek additional time to conduct discovery, and is sought in good faith and not for purposes of delay. The request to extend the deadlines is subject to the good standard as the request is made less 21 days prior to its expiration. LR 26-4. Good cause exist to extend the deadline as several unanticipated interceding events have occurred which necessitates the parties' request.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. LEGAL ARGUMENT**

Under Rule 6(b)(1) of the Federal Rules of Civil Procedure, the Court may, for good cause, extend a deadline if the request is made before the deadline expires. Similarly, under Rule 16(b)(4), a deadline set forth in a scheduling order may be modified for good cause. The good cause inquiry focuses on the moving party's diligence. Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608-09 (9th Cir. 1992). Although Local Rule 26-4 requires all *motions* to extend a deadline set forth in a scheduling order to be filed no later than 21 days before the expiration of the subject deadline, the underlying rationale of the Local Rule is not implicated here because the parties have entered into the instant stipulation. See Woods v. Quintana, No. 2:13-cv-01314-APG-CWH, 2016 U.S. Dist. LEXIS 50889, at \*6 (D. Nev. Apr. 15, 2016) ("Part of the underlying rationale for Local Rule 26-4 is to avoid the situation in which the Court" has to "attempt to decide a motion to extend a deadline before there has been time for the opposing party to respond to the motion.").

Here, good cause exists to extend both the response and reply deadlines relating to the filing of Defendant's Motion for Summary judgment on May 4, 2018. ECF No. 46. The undersigned Counsel for Plaintiff is currently engaged in preparations for arbitration in another case to take place the week of May 21, 2018, in Los Angeles, CA. That case has been extremely contentious and the past several weeks have seen unexpected depositions ordered and taken and unexpected discovery motion practice. The parties are now engaged in pre-trial motion practice, as well as preparing for the arbitration hearing itself. Since May 4, 2018, through May 25, 2018, Plaintiff's counsel has had to, or going forward will have to, prepare a reply brief for the Ninth

Circuit Court of Appeals, prepare for and attend four (4) Early Neutral Evaluations/Settlement Conferences, and two out of state depositions. After the arbitration hearing and travel back to Las Vegas on May 25, 2018, Counsel has a preplanned vacation scheduled. Accordingly, the parties respectfully request that Plaintiff's deadline to respond to Defendant's Motion for Summary Judgment be extended from its current deadline of **May 25, 2018, to June 22, 2018**.

Extending the deadline for Plaintiff to file his response necessarily requires Defendant's reply date be extended. Defendant's counsel will be traveling for a few weeks during what would be the usual reply time. Accordingly, the parties respectfully request that Defendant's deadline to reply be extended from what the deadline would be (calculated from the above date requested for Plaintiff's extension) of **July 6, 2018, to July 23, 2018**.

Dated: May 12, 2018

Dated: May 12, 2018

Respectfully submitted,

Respectfully submitted,

/s/ Victoria L. Neal

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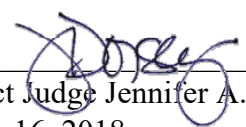
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### **ORDER**

Based on the parties' stipulation [ECF No. 47] and good cause appearing, IT IS HEREBY ORDERED that the deadline to file the response to the motion for summary judgment [ECF No. 46] is extended to 6/22/18, and the deadline for reply is extended to 7/23/18. The parties are cautioned, however, that counsel's workload and professional calendar conflicts will not constitute good cause for further extensions of these deadlines.

  
U.S. District Judge Jennifer A. Dorsey  
Dated: May 16, 2018